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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,914	08/31/2001	Donald J. Remboski	1400012	2193

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MOTOROLA, INC.
CORPORATE LAW DEPARTMENT - #56-238
3102 NORTH 56TH STREET
PHOENIX, AZ 85018

EXAMINER

LOUIS JACQUES, JACQUES H

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 12/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/943,914

Applicant(s)

REMBOSKI ET AL.

Examiner

Jacques H Louis-Jacques

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 15.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 21, 2003 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogerson in view of Muller et al [6,389,468].

Rogerson discloses a modular entertainment system configured for multiple broadband contents delivery incorporating a distributed server. According to Rogerson, there is provided an apparatus (entertainment system) comprising an active network (distributed network serve, wireless LAN), a vehicle (aircraft or other vehicles) and first and second devices (plurality of devices) communicatively coupled through the active network. See abstract. Rogerson does not particularly disclose the data packet having a header portion, a data portion, a trailer portion and an active portion. Muller et al, on the other hand, discloses a method and apparatus de distributing network traffic processing

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on a multiprocessor computer. According to Mullet al, a plurality of computers (devices) is communicatively coupled by an active network, where a data packet is provided for communicating data between the computers or devices. As depicted in figure 2 and described in the specification at pages 12-13, the data packet comprises a header portion, a data portion, a trailer portion and an active portion. According further to Muller et al, the active portion of the data packet is integrated with either the header portion, or the data portion or the trailer portion. See column 2. Furthermore, as described in column 6, for example, the active portion of the data packet comprises a plurality of active network elements coupled by connection media, wherein the active portion contains active data related to the configuration of the active network elements. Still in column 6, the active network elements can be a switch, a router or a bridge. As described in column 9, for example, Muller et al discloses a packet state, wherein the active network is operable to communicate the data packet correspond to the packet state. See also columns 11-12. The apparatus of Muller et al can be used as in a vehicle. Thus, it would have been obvious to one skilled in the art at the time of the invention to look into the distributing network art to modify the vehicle network of Rogerson by incorporating the features from the distributing network traffic processing of Muller et al because such modification, as suggested by Muller et al, would provide an efficient transfer of data, thereby improving traffic and providing adequate performance.

4. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogerson in view of Macera et al [5,490,252].

Rogerson discloses a modular entertainment system configured for multiple broadband contents delivery incorporating a distributed server. According to Rogerson, there is provided an apparatus (entertainment system) comprising an active network (distributed network serve, wireless LAN), a vehicle (aircraft or other vehicles) and first and second devices (plurality of devices) communicatively coupled through the active network. See abstract. Rogerson does not particularly disclose the data packet having a header portion, a data portion, a trailer portion and an active portion. Macera et al, on the other hand, discloses a system having central processor for transmitting packets to another processor, wherein the processors (devices) are communicatively coupled by an active network and a data packet is provided for communication of data between the processors. According to Macera et al, the data packet includes a header portion, a data portion, a trailer portion and an active portion. Macera et al also discloses that the active portion include includes a plurality of active network elements, wherein the active portion contains active data related to the configuration of the active network elements, and wherein at least one of the active network elements comprise a switch, a bridge or a router. See columns 1, 3-4 and 15-16. additionally, Macera et al discloses that the active portion contains active network timing information. See column 2. In addition, Macera et al discloses a packet state, wherein the active network is operable o communicate the data packet correspond to the packet state, and that the active portion of the data packet can be integrated with either the header portion, or the data portion o the trailer portion. Therefore, it would have been obvious to one skilled in the art at the time of the invention to look into the field of transmitting generic packets to modify the vehicle network of

Rogerson by incorporating the features from the internetworking system for exchanging packets of information between networks of Macera et al because such modification, as suggested by Macera et al, would provide maximum reliability, flexibility and performance capability.

Response to Arguments

5. The following comments are made in response the affidavit and applicants' remarks filed on November 21, 2003.

Applicant argued, "An active network is a network in which the nodes can perform custom operations on the contents of the messages that pass through the nodes." Response at page 2. Applicants further argued, "An active network does not require a central server or computing resource". Response at pages 2-3. Applicant also argued, "Rogerson does not teach or suggest the use of a vehicle comprising an active network". Response at page.

In response to applicant's argument, it is noted that Rogerson discloses, in the abstract, "Individual nodes of the distributed network architecture host individual ones of the various communication applications such that *a central server or centralized distribution network is no longer necessary.*"

It is also noted, as described in the abstract, the entertainment system is used for aircrafts or other vehicles. Furthermore, page 3 describes that the modular entertainment system according to the invention, is admirably suited for incorporation into any vehicle. Furthermore, on page 5, Rogerson compares the network disclosed therein and that of the

conventional systems, where a central server is used. In fact, according to Rogerson, the nature of the system "obviates the need for a central server"

Applicants concluded by arguing that "neither Muller et al not Macera et al teach or suggest a vehicle or an active network". Response at page 4.

Applicants seem to argue the references individually. As pointed out in the previous office action, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicants are referred to the response provided in the previous office action regarding the different requirements for a proper obviousness rejection.

After reviewing the affidavit and applicants' arguments, it is the examiner's position that the references along with the divers combinations disclose the claimed limitations.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques H Louis-Jacques whose telephone number is 703-305-9757. The examiner can normally be reached on M-Th 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on 703-308-3873. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1111.

Jacques H Louis-Jacques
Primary Examiner
Art Unit 3661

/jlj
December 22, 2003

Jacques H. Louis-Jacques
JACQUES H. LOUIS-JACQUES
PRIMARY EXAMINER